

## SENATE BILL No. 55

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-18-8-6.

**Synopsis:** Medical malpractice actions. Permits a patient to bring an action against a health care provider without submitting the complaint to the medical review board if the amount of the claim is not more than \$187,000. (Under current law, a patient may bring a direct action only if the amount is not more than \$15,000.)

**Effective:** July 1, 2015.

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January 6, 2015, read first time and referred to Committee on Judiciary.

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First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 55

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 34-18-8-6 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) Notwithstanding  
3       section 4 of this chapter, a patient may commence an action against a  
4       health care provider for malpractice without submitting a proposed  
5       complaint to a medical review panel if the patient's pleadings include  
6       a declaration that the patient seeks damages from the health care  
7       provider in an amount not greater than ~~fifteen thousand dollars~~  
8       (~~\$15,000~~) **one hundred eighty-seven thousand dollars (\$187,000)**. In  
9       an action commenced under this subsection (or IC 27-12-8-6(a) before  
10      its repeal), the patient is barred from recovering any amount greater  
11      than ~~fifteen thousand dollars (\$15,000)~~ **one hundred eighty-seven**  
12      **thousand dollars (\$187,000)**, except as provided in subsection (b).  
13      (b) A patient who:  
14          (1) commences an action under subsection (a) (or IC 27-12-8-6(a)  
15          before its repeal) in the reasonable belief that damages in an  
16          amount not greater than ~~fifteen thousand dollars (\$15,000)~~ **one**



**hundred eighty-seven thousand dollars (\$187,000)** are adequate compensation for the bodily injury allegedly caused by the health care provider's malpractice; and

(2) later learns, during the pendency of the action, that the bodily injury is more serious than previously believed and that ~~fifteen thousand dollars (\$15,000)~~ **one hundred eighty-seven thousand dollars (\$187,000)** is insufficient compensation for the bodily injury;

may move that the action be dismissed without prejudice and, upon dismissal of the action, may file a proposed complaint subject to section 4 of this chapter based upon the same allegations of malpractice as were asserted in the action dismissed under this subsection. In a second action commenced in court following the medical review panel's proceeding on the proposed complaint, the patient may recover an amount greater than ~~fifteen thousand dollars (\$15,000)~~ **one hundred eighty-seven thousand dollars (\$187,000)**. However, a patient may move for dismissal without prejudice and, if dismissal without prejudice is granted, may commence a second action under this subsection only if the patient's motion for dismissal is filed within two (2) years after commencement of the original action under subsection (a) (or IC 27-12-8-6(a) before its repeal).

(c) If a patient:

(1) commences an action under subsection (a) (or IC 27-12-8-6(a) before its repeal);

(2) moves under subsection (b) (or IC 27-12-8-6(b) before its repeal) for dismissal of that action;

(3) files a proposed complaint subject to section 4 of this chapter based upon the same allegations of malpractice as were asserted in the action dismissed under subsection (b) (or IC 27-12-8-6(b) before its repeal); and

(4) commences a second action in court following the medical review panel proceeding on the proposed complaint;

the timeliness of the second action is governed by IC 34-18-7-1(c).

(d) A medical liability insurer of a health care provider against whom an action has been filed under subsection (a) (or IC 27-12-8-6(a) before its repeal) shall provide written notice to the state health commissioner as required under IC 34-18-9-2.

